

FILED

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

2012 AUG 27 P 3:17

U.S. DISTRICT COURT
N.D. OF ALABAMATRINETICS INTERNATIONAL, INC.,)
And TRI-HAM, LLC)

Plaintiffs,)

v.)

Case No.:

DHL AIR & OCEAN GENERAL)
TRANSPORT, FORWARDING AND)
CUSTOMS CLEARANCE, LLC, d/b/a)
DHL GLOBAL FORWARDING IRAQ,)
and DHL GLOBAL FORWARDING)
(AE),)

Defendants.)

CV-12-S-2810-NE

COMPLAINT

COME NOW Plaintiffs Trinetics International, Inc. ("Trinetics") and Tri-Ham, LLC ("Tri-Ham") (collectively, "Plaintiffs"), by and through undersigned counsel, and file this Complaint against Defendant DHL Air & Ocean General Transport, Forwarding and Customs Clearance, LLC, d/b/a DHL Global Forwarding Iraq ("DHL Iraq") and DHL Global Forwarding (AE) ("DHL AE") (collectively "Defendants"), stating as grounds for which the following:

PARTIES, JURISDICTION AND VENUE

1. Trinetics International, Inc. is a corporation organized under the laws of the State of Alabama, with its principal place of business in Alabama, and doing business in Madison County, Alabama.

2. Tri-Ham, LLC is a limited liability company organized under the laws of the State of Delaware, with its principal place of business in Delaware, and doing business in Madison County, Alabama.
3. DHL Iraq is a limited liability company organized under the laws of Iraq, with its principal place of business in Iraq, and doing business in Madison County, Alabama.
4. DHL AE is a company organized under the laws of the United Arab Emirates, with its principal place of business in the United Arab Emirates, and doing business in Madison County, Alabama.
5. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs.
6. Defendants have sufficient minimum contacts with Alabama so that personal jurisdiction in this court is consistent with the United States Constitution and the Alabama Constitution.
7. This court has original jurisdiction over this action based on diversity of citizenship under 28 U.S.C. § 1332.
8. Venue in this action is proper in this district pursuant to 28 U.S.C. § 1391.

STATEMENT OF FACTS

9. On August 14, 2011, Tri-Ham entered into a contract with DHL Iraq. A true and correct copy of the contract is attached hereto as Exhibit "A."
10. Tri-Ham fulfilled its requirements pursuant to the contract, by supplying the materials and services set out therein.

11. DHL Iraq failed or otherwise refused to perform under the contract by paying Tri-Ham the amount required thereunder.
12. On December 5, 2011, Trinetics and TriHam sent DHL Iraq a statement of account correctly stating the balance of the account between the parties. A true and correct copy of the statement of account is attached hereto as Exhibit "B."
13. As of this date, DHL Iraq has not objected to the statement of account.
14. Furthermore, DHL Iraq has admitted that the statement of account was correct.
15. DHL AE, a related entity to DHL Iraq, was one of Plaintiffs' primary contacts regarding the DHL Iraq contract, and was responsible for arranging the payments to Plaintiffs based on the contract.
16. DHL AE admitted that the debt represented in the statement of account sent to DHL Iraq was owed to Trinetics pursuant to the contract, and promised that Trinetics would be paid in full.

COUNT I: BREACH OF CONTRACT

17. All material allegations contained herein are incorporated by reference, as if set out here in their entirety.
18. Tri-Ham and DHL Iraq entered into a contract on August 14, 2011.
19. Tri-Ham fulfilled its obligations pursuant to the contract.
20. DHL Iraq breached the contract by failing or refusing to pay Tri-Ham for its materials rendered under the contract.
21. Tri-Ham and Trinetics have been damaged by this breach in the amount of \$1,396,000.00.

WHEREFORE PREMISES CONSIDERED, Plaintiffs demand Judgment in their favor and against DHL Iraq in the amount of \$1,396,000.00, plus interest, attorneys' fees and costs, and grant them such further and additional relief to which they are justly entitled.

COUNT II: ACCOUNT STATED

22. All material allegations contained herein are incorporated by reference, as if set out here in their entirety.
23. Trinetics has provided DHL Iraq a statement of account between the parties showing the amount due to be paid on DHL Iraq's account with Trinetics, and DHL Iraq has failed to object to said account within a reasonable time.
24. DHL Iraq has further admitted that the statement of account is correct.
25. DHL Iraq owes Trinetics the sum of \$1,396,000.00, due by account stated.

WHEREFORE PREMISES CONSIDERED, Plaintiffs demand Judgment in their favor and against DHL Iraq in the amount of \$1,396,000.00, plus interest, attorneys' fees and costs, and grant them such further and additional relief to which they are justly entitled.

COUNT III: PROMISSORY FRAUD

26. All material allegations contained herein are incorporated by reference, as if set out here in their entirety.
27. DHL AE agreed that the debt represented in the statement of account sent to DHL Iraq was owed to Trinetics pursuant to the contract, and promised that Trinetics would be paid in full.

28. AT the time DHL AE made the above promise to Trinetics, it had no intention of performing it.
29. DHL AE intended to induce Trinetics to alter its position based on the above promise.
30. Trinetics did alter its position based on the above promise, and was damaged thereby.

WHEREFORE PREMISES CONSIDERED, Plaintiffs demand Judgment in their favor and against DHL AE an amount to be determined at trial, and grant them such further and additional relief to which it is justly entitled.

/s/ Kevin D. Heard

Kevin D. Heard
Adam C. Dauro
Attorneys for Plaintiffs

Of Counsel:

HEARD ARY, LLC
307 Clinton Ave. W, Ste. 310
Huntsville, Alabama 35801
Tel: (256) 535-0817
Fax: (256) 535-0818
kheard@heardlaw.com
adauro@heardlaw.com

Defendant's Addresses:

DHL Air & Ocean General Transport,
Forwarding and Customs Clearance, LLC,
d/b/a DHL Global Forwarding Iraq
301/Bldg. No. 8
Mnawi Basha
Basra, Iraq

DHL Global Forwarding (AE)
PO Box 47814
Dubai
United Arab Emirates